

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1855 OF 2006**

Tarulata Kantaria and others

...Petitioners

vs.

Citi Bank N.A. and others

...Respondents

Mr.Girish Kulkarni i/b M/s.Dhruva & Co. for the Petitioners

Mr.J.S.Saluja for Respondent No.1

Mr.Y.M.Nakhawa,A.P.P. for State

**CORAM: A.S.OKA,J.
DATE : OCTOBER 16,2006.**

P.C.:

1. Heard the learned Counsel for the parties. When this
Petition was on board on 5th September 2006, following order
is passed :

1. The learned Counsel for the Petitioners states
that the symbolic possession of the immovable
property in question is already handed over to
the first Respondent-Bank. In view of this
statement, issue notice to the Respondents
returnable on 10th October 2006. In addition to
service through Court the Advocate for the
Petitioners is directed to serve private notice
to the Respondents and file Affidavit of service
before the returnable date.

2. Till 11th October 2006 actual physical possession

of the property subject matter of the impugned order shall not be taken.

2. On 10th October 2006, the learned Counsel for the first Respondent produced on record possession receipt dated 5th August 2006 which records that the Petitioners had already handed over the physical possession of the flat subject matter of this Petition to the first Respondent in presence of of the Deputy Registrar of Esplanade Court, Mumbai. The said fact is not disputed by the Advocate for the Petitioners today.

3. It is obvious that the Petitioners did not disclose the correct facts to the Counsel appearing for the Petitioners when the Petition came up on board on 5th September 2006. It is obvious that when the Petition came up before this Court on 5th September 2006, the Petitioners instructed their Counsel to make a statement which is toally incorrect. In view of this position, this petition under Article 227 of Constitution of India is not entertained and the same is rejected.

JUDGE